

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

TWENTY-THIRD DAY

(Wednesday, March 18, 2009)

The Senate met at 11:10 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend Dr. R. Bruce Webb, First Baptist Church of The Woodlands, offered the invocation as follows:

Our Father, thank You for these men and women who serve our state in the Texas Senate. I ask You to bless their families and their businesses. Bless the time and effort they give to help the people of our state live better lives. Aid them in doing what is right. Rescue them from pettiness and selfishness. Help them reject the temptation to use dishonorable methods to try to bring about honorable results. Give them solutions to our many problems that are good for all. I pray for these men and women of the Senate the rare and special courage to do what is best for our state even if it is not always in their own personal best interest. Empower them to be their very best for our state and for others. And now, with respect toward all people of faith and also to those who do not have faith, I pray this prayer in the name of the risen lord and my savior, Jesus Christ. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

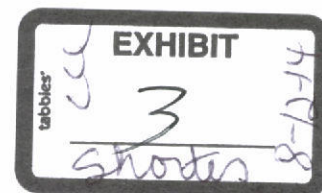
The motion prevailed without objection.

CO-AUTHORS OF SENATE BILL 19

On motion of Senator Patrick, Senators Averitt, Davis, Deuell, Fraser, Gallegos, Harris, Lucio, Seliger, Shapiro, Shapleigh, Uresti, Watson, Wentworth, and Zaffirini will be shown as Co-authors of **SB 19**.

Defendant's Exhibit #

DE-006358



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**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

BIRTHDAY GREETINGS EXTENDED

Senator Williams was recognized and, on behalf of the Senate, extended birthday greetings to Senator Watson.

CONCLUSION OF MORNING CALL

The President at 11:39 a.m. announced the conclusion of morning call.

PERSONAL PRIVILEGE STATEMENT

Senator Lucio was recognized to speak on a matter of personal privilege.

AT EASE

The President at 11:44 a.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 12:13 p.m. called the Senate to order as In Legislative Session.

SENATE BILL 362 ON THIRD READING

The President laid before the Senate **SB 362** by Senator Fraser at this time on its third reading and final passage (set as special order):

SB 362, Relating to requiring a voter to present proof of identification.

The bill was read third time and was passed by the following vote: Yeas 19, Nays 12.

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

LETTER FROM DEPUTY SECRETARY OF STATE

Senator Van de Putte was recognized to read and to submit in writing the following letter relating to **SB 362** from the Deputy Secretary of State:

Coby Shorter, III
Deputy Secretary of State
State of Texas

March 11, 2009

The Honorable Leticia Van de Putte
Texas Senate
P.O. Box 12068 – Capitol Station
Austin, Texas 78711

Dear Senator Van de Putte:

Thank you for the opportunity to serve as a resource witness on Senate Bill 362. During my testimony you asked several questions which I needed to research. Below, please find your questions and my responses.

Question: Explain the difference between a Citizenship Certificate and Citizenship Papers.

Please know the Office of the Secretary of State does not have jurisdiction over U.S. citizenship issues; thus, our response is based on information from the U.S. Citizenship and Immigration Services. Based on preliminary research, we have determined that a Certificate of U.S. Citizenship is a document issued by the United States government as proof of U.S. citizenship. Individuals who are eligible to apply for the certificate include those who obtained U.S. citizenship while residing in the United States or individuals who were born outside the United States to U.S. citizens. Specifically, children born of U.S. citizens who were born abroad are eligible. In addition, a child whose parent or parents became naturalized while the child was under 18 years of age is also eligible for this document. The Certificate of U.S. Citizenship contains a photograph and qualifies as proof of identity under the proposed amendment to Section 63.0101(a) of the Texas Election Code (the "Code").

"United States Citizenship Papers" are one of the authorized forms of identification in the proposed amendment to Section 63.0101(b) of the Code. According to the U.S. Citizenship and Immigration Services, the following documents generally constitute proof of U.S. citizenship: birth certificate, U.S. Passport, Certificate of Citizenship, and Naturalization Certificate. These four documents would appear to qualify as "United States Citizenship Papers" under the proposed amendment to Section 63.0101. A U.S. Passport and a Certificate of Citizenship are specifically listed as forms of photo identification authorized under the proposed Section 63.0101(a), so it appears that these documents qualify under both 63.0101(a) and (b). A Certificate of Naturalization is a document issued by the United States government (or before October 1, 1991 by a federal or state court) as proof of a person having obtained U.S. citizenship through naturalization. A Certificate of Naturalization contains the person's photograph. A birth certificate does not contain a photograph.

Question: How will inconsistencies between a temporary address appearing on an authorized identification document and a permanent address appearing on the voter registration list of military and student voters be treated if SB 362 were to become law?

Senate Bill 362 requires a voter to provide proof of his or her identity and does not require a voter to provide proof of residence. If there was an inconsistency between an address that appeared on an authorized form of identification and the voter registration roll, that would not be grounds to disqualify the voter. As long as the voter still claimed the address that appeared on the voter registration list as his or her permanent residence address, the voter would be accepted for voting. Accordingly, if a voter presented a valid form of identification as proposed under Senate Bill 362, which contained an address different from the address on the list of registered voters, that voter would be allowed to vote.

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Question: Does the Secretary of State track the racial status of registered voters? If not, how will the state prove that Senate Bill 362 does not have an adverse impact on minority voters when the state submits the bill for preclearance?

Because racial status is not considered in a person's eligibility to register to voter, the state prescribed voter registration application does not request this information from voters. As a result, the state does not have statistics regarding the race or ethnicity of registered voters in Texas. We do have data on the number of registered voters with Hispanic surnames, but this data is inconclusive as it simply matches the surname of registered voters against a list of identified Hispanic surnames provided by the U.S. Census Bureau.

Every submission to the U.S. Department of Justice is different based on the unique aspects of the legislation. For instance, the Texas Legislative Council assisted with the compilation of data on race and ethnicity for redistricting bills. A similar effort to obtain such demographics may be required for a voter identification bill. Historically, we have also worked with legislators to ensure the best data available is included in submissions.

Thank you for the opportunity to research these issues. If I have inadvertently omitted or misunderstood your questions, please let me know.

Sincerely,

/s/ Coby Shorter, III

Deputy Secretary of State

**STATEMENT REGARDING VOTES CAST ON
SENATE BILL 362
(Senate Rule 17.01)**

Senator West submitted the following statement:

We offer the following statements with respect to our votes on Senate Bill 362 and ask that they be spread upon the journal of the Senate:

1. The Senate is comprised of 31 members, 8 of whom are ethnic minorities: Ellis, West, Gallegos, Hinojosa, Lucio, Uresti, Van de Putte, and Zaffirini.
2. On January 14, 2009, a motion was made to amend the previous rules of the Senate to allow for legislation relating to voter identification requirements, after being reported favorably from a Committee of the Whole Senate, to be set as a special order, therefore bypassing the need for a two-thirds vote of the Senate at any point during Senate deliberations, for legislation addressing only this subject. The motion prevailed by a vote of 18-13. All 8 Senators who are ethnic minorities voted against this motion.
3. On March 10-11, 2009, the Senate convened as a Committee of the Whole Senate, and took up and passed Senate Bill 362, which relates to voter identification requirements, by a vote of 20 to 12. All Senators who are ethnic minorities voted against passage of the bill from the Committee of the Whole Senate.

4. On March 11, 2009, the Senate voted to set Senate Bill 362, and no other bill, for special order. The vote on this special order was 19-12. All 8 ethnic minority Senators voted against this motion.

5. On March 17th, the Senate took up Senate Bill 362 on second reading, as a special order. The vote on this legislation was 19-12. All 8 ethnic minority Senators voted against this motion.

6. On March 18th, the Senate took up Senate Bill 362 on third reading. The vote on this legislation was 19-12. All 8 ethnic minority Senators voted against this legislation.

7. To date, there have been no other opportunities during the 81st Regular Legislative Session in which members of the Senate had the opportunity to vote on legislation relating to voter identification, other than the ones listed above; and

8. Of all the opportunities members of the Senate have had to vote on voter identification legislation, or Senate process regarding voter identification legislation, no Senator who is an ethnic minority has voted in favor of such legislation or the process related to such legislation.

WEST	URESTI
ELLIS	VAN DE PUTTE
GALLEGOS	WATSON
LUCIO	WHITMIRE
SHAPLEIGH	ZAFFIRINI

SENATE BILL 52 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 52** at this time on its second reading:

SB 52. Relating to the penalties for the illegal use of a parking space or area designated specifically for persons with disabilities.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 52 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 52** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Seliger, Wentworth.